

**IN THE COUNTY COURT FOR THE SECOND JUDICIAL DISTRICT
HARRISON COUNTY, MISSISSIPPI**

JUDITH BUTERBAUGH

PLAINTIFF

VS.

D2402-11-628

WAL-MART STORES INC.

DEFENDANT

CLERK'S CERTIFICATE

**STATE OF MISSISSIPPI
COUNTY OF HARRISON**

I, Gayle Parker, the duly elected, qualified and acting County clerk of Harrison County, Mississippi, do hereby certify that the foregoing pages are and constitute a full, true, and correct copy of the proceedings in regard to the above-entitled case, as of this day.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE this the

2 day of NOVEMBER, 2011.

(SEAL)

**GAYLE PARKER
CLERK OF COUNTY COURT OF
HARRISON, MISSISSIPPI**

By:  D.C.

EXHIBIT "A"

PO BOX 235 730 Dr. Martin Luther King Blvd. Biloxi, 39533 MS. Phone: (228)435-8232 EXT

CASE HISTORY FOR CASE D24021100628

Judith Buterbaugh vs Wal-Mart Stores Inc

FILED DATE: 8/9/2011

CASE TYPE: 1/NEGLIGENCE/GENERAL

STATUS: Active

JUDGE: Hewes, Gaston H Jr

CASE PARTIES:

Plaintiff Buterbaugh, Judith

Plaintiff Attorney Necaise, Albert Lionel

Defendant Wal-Mart Stores Inc

CASE HISTORY FOR CASE D24021100628

Buterbaugh, Judith

2510 16th St Po Box 717

Current Age: Unknown

DL#:

Total Paid: \$ 126.00

DOB: Unknown

SSN: 000-00-0000

Balance Due: \$ 0.00

Gulfport, MS 39502

COST

AMOUNT

PAY PRIORITY

Action: COMPLAINT		
Clerk Fees	\$85.00	75
Civil Legal Assistance Fund	5.00	200
Court Administrator Fee	2.00	200
Court Constituents Fund	0.50	150
Law Library	7.50	250
Com Electronic Court Systems Fund	10.00	100
Steno Fee	10.00	200
Court Education Funds	2.00	275
Jury Tax	3.00	200
Records Managment Fee	1.00	700

Total: \$126.00

DATE	TIME	DESCRIPTION
08/09/2011	9:05 am	Filing recorded: SUMMONS ISSUED ON WAL-MART STORES C/O CT CORP AND Buterbaugh, Judith
08/09/2011	9:05 am	RM recorded the following Case Action Note: HANDED TO RUNNER FOR SERVICE Buterbaugh, Judith
08/09/2011	9:00 am	Received payment of \$126.00 from Albert Lionel Necaise for Judith Buterbaugh. Printed receipt #18300. Buterbaugh, Judith
08/09/2011	12:00 am	Filing recorded: COMPLAINT Buterbaugh, Judith

IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI
SECOND JUDICIAL DISTRICT

JUDITH BUTERBAUGH

PLAINTIFF

VERSUS

CIVIL ACTION NO.: D2402-11-0028

WAL-MART STORES INC.

DEFENDANT

COMPLAINT

The Plaintiff alleges:

1. Plaintiff, Judith Buterbaugh, is an adult, resident citizen of Harrison County, Mississippi.
2. The Defendant is:
 - a. Wal-Mart Stores, Inc., ("Wal-mart") is a Delaware corporation authorized to do business and doing business in Mississippi. Its registered agent for service of process is CT Corporation Systems, 645 Lakeland East Drive, Suite 101, Flowood, Mississippi 39232.
3. Jurisdiction and venue are proper under *Miss. Code Ann. §11-11-1*.
4. That on or about August 11, 2009, Plaintiff, Judith Buterbaugh was responding to an invitation held open to the general public, was shopping at the Wal-Mart Store # 2715, on 3615 Sangani Blvd., D'Iberville, Mississippi, in the Second Judicial District of Harrison County, Mississippi.
5. As Ms. Buterbaugh was browsing down an isle she slipped and fell on a liquid substance, causing Ms. Buterbaugh to fall to the floor, striking her head and neck on the metal shelf and loss of consciousness.
6. Plaintiff, Judith Buterbaugh, alleges that Defendant, Wal-Mart Stores Inc., was negligent in one or more of the following respects that caused or proximately contributed to the subject accident:

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FILED
AUG 09 2011
CLERK OF COURT
HARRISON COUNTY, MISSISSIPPI
[Signature]

- a. Negligently failing to maintain the store premises in a clean and orderly condition;
- b. Negligently failing to provide a safe environment for its patrons;
- c. Negligently failing to observe and remove hazardous objects from Plaintiff's immediate path;
- d. Negligently failing to warn Plaintiff of potential hazardous obstacles and/or objects, specifically those objects on the floor of store;
- e. Negligently violating certain state statutes.

7. As a direct and proximate cause of the negligent acts and omissions of the Defendant, the Plaintiff, Judith Buterbaugh, sustained serious, permanent and disabling injuries.

8. The Plaintiff, Judith Buterbaugh, specifically claims the following actual damages:

- a. Her medical expenses to include future medical care and treatment;
- b. Pain and suffering;
- c. Injury to her body, including but not limited to her head, back, shoulders and neck.

9. The Plaintiff, Judith Buterbaugh, further alleges that the negligence of the Defendant was so gross, as to display a reckless disregard for the rights, safety and welfare of Ms. Buterbaugh, and she is entitled to recover punitive damages. Punitive or exemplary damages should be imposed, in amount reasonably calculated, to punish the Defendant and deter them and others in the future.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, Judith Buterbaugh, demands judgment from the Defendant, Wal-Mart Stores Inc., as allocated by the jury, as follows:

- a. For present and future pain and suffering, in a reasonable amount, as determined by the jury;
- b. A sum sufficient to pay all medical, hospital and drug related expenses occasioned by the accident;
- c. For actual damages;
- d. For punitive damages in a reasonable amount to be calculated by the jury, to punish the Defendant and deter them and others from engaging in such conduct in the future.
- e. All costs of court together with pre-judgment and post-judgment interest.
- f. Any other damages this Court may deem appropriate.

RESPECTFULLY SUBMITTED, this the 5th day of August, 2011.

JUDITH BUTERBAUGH, PLAINTIFF

BY: 

Attorney for Plaintiff

ALBERT L. NECAISE, MSBN 3778
ATTORNEY AT LAW
2510 16th Street
P. O. BOX 717
GULFPORT, MISSISSIPPI 39502
PHONE (228) 863-1990
FAX (228) 868-8307
EMAIL: necaisea@bellsouth.net

COVER SHEET Civil Case Filing Form <i>(To be completed by Attorney/Party Prior to Filing of Pleading)</i>		Court Identification Docket Number <div style="border: 1px solid black; padding: 2px; display: inline-block; margin: 2px;">29270</div> <small>County # Judicial Court ID District (CH, CI, CO)</small>	Case Year <div style="border: 1px solid black; padding: 2px; display: inline-block; margin: 2px;">2011</div>	Docket Number <div style="border: 1px solid black; padding: 2px; display: inline-block; margin: 2px;">F029</div> <small>Local Docket ID</small>															
<small>Mississippi Supreme Court Administrative Office of Courts</small>		<small>Form AOC/01 (Revised 1/1/2001)</small>		<small>Case Number if filed prior to 1/1/94</small>															
This area to be completed by clerk																			
IN THE COUNTY <u>HARRISON</u> COURT OF <u>HARRISON</u> COUNTY																			
Short Style of Case: <u>JUDITH BUTERBAUGH - V. WAL-MART STORES INC.</u>																			
Party Filing Initial Pleading: Type/Print Name <u>ALBERT NECAISE</u> MS Bar No. <u>3778</u>																			
Check (✓) if Not an Attorney _____ Check (✓) if Pro Hac Vice _____ Signature _____																			
Compensatory Damages Sought: \$ <u>YES</u> Punitive Damages Sought: \$ <u>YES</u>																			
Is Child Support contemplated as an issue in this suit? _____ Yes _____ No <input checked="" type="checkbox"/> If "yes" is checked, please submit a completed Child Support Information Sheet with Final Decree/Judgment																			
PLAINTIFF - PARTY(IES) INITIALLY BRINGING SUIT SHOULD BE ENTERED FIRST (FIRST NAME IN SHORT STYLE) - ENTER ADDITIONAL PLAINTIFFS ON SEPARATE FORM																			
Individual <u>BUTERBAUGH</u> <u>JUDITH</u> (_____)																			
<small>Last Name First Name Maiden Name, if Applicable Middle Init. Jr/Sr/III/IV</small>																			
Address of Plaintiff <u>2510 16TH STREET/P.O. BOX 717 GULFPORT, MS 39502</u>																			
Check (✓) if Individual Plaintiff is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: _____																			
Check (✓) if Individual Plaintiff is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity: _____																			
D/B/A / Agency _____																			
Business _____																			
Enter legal name of business, corporation, partnership, agency - If Corporation, indicate state where incorporated																			
Check (✓) if Business Plaintiff is filing suit in the name of an entity other than the above, and enter below: _____																			
D/B/A: _____																			
DEFENDANT - NAME OF DEFENDANT (FIRST NAME IN SHORT STYLE) - ENTER ADDITIONAL DEFENDANTS ON SEPARATE FORM																			
Individual <u>WAL-MART STORES INC</u> (_____)																			
<small>Last Name First Name Maiden Name, if Applicable Middle Init. Jr/Sr/III/IV</small>																			
Check (✓) if Individual Defendant is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: _____																			
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Enter legal name of business, corporation, partnership, agency - If Corporation, indicate state where incorporated																			
Check (✓) if Business Defendant is being sued in the name of an entity other than the above, and enter below: _____																			
D/B/A: _____																			
ATTORNEY FOR THIS DEFENDANT: _____ Bar No. _____ or Name: _____ Pro Hac Vice (✓) _____																			
(If known)																			
In left hand column, check one (1) box that best describes the nature of this suit. In right hand column check all boxes which indicate secondary claims.																			
<table border="0" style="width:100%;"> <tr> <td style="vertical-align: top; width: 33%;"> Business/Commercial <input type="checkbox"/> Accounting (Business) <input type="checkbox"/> Bankruptcy <input type="checkbox"/> Business Dissolution - Corporation <input type="checkbox"/> Business Dissolution - Partnership <input type="checkbox"/> Debt Collection <input type="checkbox"/> Employment <input type="checkbox"/> Examination of Debtor <input type="checkbox"/> Execution <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Pension <input type="checkbox"/> Receivership <input type="checkbox"/> Replevin <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other _____ </td> <td style="vertical-align: top; width: 33%;"> Probate <input type="checkbox"/> Accounting (Probate) <input type="checkbox"/> Birth Certificate Correction <input type="checkbox"/> Commitment <input type="checkbox"/> Conservatorship <input type="checkbox"/> Guardianship <input type="checkbox"/> Heirship <input type="checkbox"/> Intestate Estate <input type="checkbox"/> Minor's Settlement <input type="checkbox"/> Muniment of Title <input type="checkbox"/> Name Change <input type="checkbox"/> Power of Attorney <input type="checkbox"/> Testate Estate <input type="checkbox"/> Will Contest <input type="checkbox"/> Other _____ </td> <td style="vertical-align: top; width: 33%;"> Children and Minors - Non-Domestic <input type="checkbox"/> Adoption - Noncontested <input type="checkbox"/> Consent to Abortion for Minor <input type="checkbox"/> Removal of Minority <input type="checkbox"/> Other _____ </td> </tr> <tr> <td style="vertical-align: top;"> Domestic Relations <input type="checkbox"/> Child Custody/Visitation <input type="checkbox"/> Child Support <input type="checkbox"/> Contempt <input type="checkbox"/> Divorce: Fault <input type="checkbox"/> Divorce: Irreconcilable Differences <input type="checkbox"/> Domestic Abuse <input type="checkbox"/> Emancipation <input type="checkbox"/> Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Property Division <input type="checkbox"/> Separate Maintenance <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> UIFSA (formerly URESA) <input type="checkbox"/> Other _____ </td> <td style="vertical-align: top;"> Statutes/Rules <input type="checkbox"/> Bond Validation <input type="checkbox"/> Civil Forfeiture <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> ERISA <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Extraordinary Writ <input type="checkbox"/> Federal Statutes <input type="checkbox"/> Injunction or Restraining Order <input type="checkbox"/> Municipal Annexation <input type="checkbox"/> Racketeering (RICO) <input type="checkbox"/> Railroad <input type="checkbox"/> Seaman <input type="checkbox"/> Other _____ </td> <td style="vertical-align: top;"> Torts - 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IN THE COUNTY COURT OF HARRISON COUNTY, MISSISSIPPI
SECOND JUDICIAL DISTRICT

JUDITH BUTERBAUGH

PLAINTIFF

VERSUS

CIVIL ACTION NO.: D2402-11-028

WAL-MART STORES INC.

DEFENDANT

SUMMONS

THE STATE OF MISSISSIPPI

TO: CT Corporation Systems
645 Lakeland East Drive
Suite 101
Flowood, Mississippi 39232

NOTICE TO DEFENDANT

THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.

You are required to mail or hand-deliver a copy of a written response to the Complaint to **Albert Necaie, attorney for the Plaintiff, whose address is 2510 - 16th Street, P. O. Box 717, Gulfport, Mississippi 39502.** Your response must be mailed or delivered within (30) days from the date of delivery of this summons and complaint or a judgment by default will be entered against you for the money or other things demanded in the complaint.

You must also file the original of your response with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this 9 day of August, 2011.

(SEAL)

GAYLE PARKER, CLERK OF COURT

Renee M. Kell
BY: DEPUTY CLERK OF COURT

ALBERT NECAISE (M.S. BAR NO. 3778)
ATTORNEY AT LAW
2510 16TH STREET
P.O. BOX 717
GULFPORT, MS 39502
PHONE: 228-863-1990
FAX: 228-868-8307
EMAIL: necaiea@bellsouth.net

COPY **SCANNED**

(USE SEPARATE PROOF OF SERVICE FOR EACH PERSON SERVED)

Name of Person or Entity Served _____

I, the undersigned process server, served the summons and complaint upon the person or entity named above in the manner set forth below (process server must check proper space and provide all additional information that is requested and pertinent to the mode of service used):

_____ **FIRST CLASS MAIL AND ACKNOWLEDGMENT SERVICE.** By mailing (by first class mail, postage prepaid) copies to the person served, together with copies of the for of notice and acknowledgment and return envelope, postage prepaid, addressed to the sender (*Attach completed acknowledgment of receipt pursuant to M.R.C.P. Form 1B*).

_____ **PERSONAL SERVICE.** I personally delivered copies to _____ on the _____ day of _____, 2011, where I found said person in _____ County of the State of _____ (SUMMONS and COMPLAINT.)

_____ **RESIDENCE SERVICE.** After exercising reasonable diligence I was unable to deliver copies to said person within _____ County, _____ State. I served the summons and complaint on the _____ Day of _____, 2011, at the usual place of abode of said person by leaving a true copy of the summons and complaint with _____ who is the _____ (Here insert wife, husband, son, daughter, or other person as the case may be), a member of the family of the person served above the age of sixteen years and willing to receive the summons and complaint, and thereafter on the _____ day of _____, 2011, I mailed (by first class mail, postage prepaid) copies to the person served at his or her usual place of abode where the copies were left.

_____ **CERTIFIED MAIL SERVICE.** By mailing to an address outside Mississippi)by first class mail, postage prepaid, requiring a return receipt) copies to the person served. (Attach signed return receipt or other evidence of actual delivery to the person served).

At the time of service I was at least 18 years of age and not a party to this action.

Fee for service \$ _____

Process server must list below. (Please print or type)

NAME: _____

ADDRESS: _____

PHONE: _____

STATE OF _____
COUNTY OF _____

Personally appeared before me the undersigned authority in and for the state and county aforesaid, the within named _____ who being first by me duly sworn states on oath that the matters and facts set forth in the foregoing "Proof of Service-Summons" are true and correct as therein stated.

PROCESS SERVER (SIGNATURE)

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE _____ DAY OF _____, 2011.

(SEAL)

NOTARY PUBLIC